

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

Plaintiff,

-against-

ORDER

12 CV 4440 (DRH) (AKT)

JOSEPH McDERMOTT,

Defendant.

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HURLEY, Senior District Judge:

Plaintiff United States of America ("Plaintiff") commenced this action on September 6, 2012, pursuant to 26 U.S.C. § 7401, seeking to recover the assessed and unpaid federal income tax liabilities of defendant Joseph McDermott ("Defendant"), for the years ended December 31, 2001 through 2010, plus statutory accruals. Defendant did not answer the Complaint or otherwise appear in this action. After Defendant's default was noted by the Clerk of Court pursuant to Federal Rule of Civil Procedure ("Rule") 55(a), Plaintiff moved for entry of a default judgment under Rule 55(b). On May 7, 2013, this motion was referred to United States Magistrate Judge A. Kathleen Tomlinson to issue a Report and Recommendation as to whether Plaintiff has demonstrated the allegations in the Complaint establishing Defendant's liability such that the motion for a default judgment should be granted, and if so, to determine the appropriate amount of damages, costs, and/or fees, if any, to be awarded.

On February 14, 2014, Judge Tomlinson issued a Report and Recommendation which recommended that the Court enter a default judgment in favor of Plaintiff in the amount of \$186,288.43, plus pre-judgment interest. More than fourteen days have elapsed since service of the Report and Recommendation and no party has filed an objection.

Pursuant to 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72, this Court has

reviewed the February 14, 2014 Report and Recommendation for clear error, and finding none, now concurs in both its reasoning and its result. Accordingly, the February 14, 2014 Report and Recommendation is adopted as if set forth herein, and Plaintiff's motion for a default judgment is granted. The Court hereby directs that Plaintiff recover damages from Defendant in the amount of \$186,288.43. Further, the Court directs that Plaintiff be awarded pre-judgment interest, calculated from April 24, 2013 until such time the judgment is paid in full, at the underpayment rate set forth in 26 U.S.C. § 6621, which is established by adding the Federal short term rate plus three percentage points. Said pre-judgment interest shall be compounded daily pursuant to 26 U.S.C. § 6622. Upon entry of judgment, the Clerk of the Court is directed to close this case.

SO ORDERED.

Dated: Central Islip, New York
March 10, 2014

/s/
Denis R. Hurley
United States Senior District Judge